ADR Research for LLM Short Paper Writers

Jennifer Allison, Harvard Law School Library
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LAW LIBRARY WEBSITE & RESEARCH GUIDES
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Research Guides by HLS Librarians

Results of Hollis library catalog search
ADR RESEARCH GUIDE: HOMEPAGE
ADR RESEARCH GUIDE: ORGANIZATION

General ADR Resources
- ADR Books
- ADR Scholarly Journals and Articles
- Other ADR Legal Secondary Sources
- ADR Practice Materials
- Online ADR Resources

ADR Methodologies
- Arbitration
- Court ADR
- Early Neutral Evaluation (ENE)
- Government ADR
- Med-Arb or Arb-Med
- Mediation
- Negotiation
- Restorative Justice

ADR Dispute Types
- Antitrust Disputes
- Civil Rights Disputes
- Construction Disputes
- Family Law Disputes
- Intellectual Property Disputes
- Labor and Employment Disputes
- United Nations (UN) Labor Dispute Resolution System
ADR RESEARCH GUIDE: MEDIATION

Mediation

In the mediation process, the disputing parties meet with a neutral person who facilitates the discussion of their disagreement and the negotiation of a compromise. The main goal of the mediator is not to judge which party is "right" or "wrong," but to encourage and help the parties to communicate about their differences so that a mutually-agreeable solution can be reached.

Mediation Books

Note: Books in the law library are organized by subject. Browse the shelves near the books listed below to find related titles.

- Lawyers and Mediation by Bryan Clark
  Call Number: K2390 .C53 2012

- Mediation in a Nutshell by Kimberlee K. Kovach
  Call Number: KF9084 .29 K68x 2010

- Mediation: Law, Policy, and Practice by Sarah R. Cole
  Call Number: KF9084 .M4
  This publication is also available in Westlaw (database identifier = MEDIATION).

- Mediation: Principles and Regulation in Comparative Perspective by Klaus J. Hopt and Felix Steffek
  Call Number: KF4150 .M43 2012

Click a link to view the Hollis record.
Locations and Availability: Shows where it is in the library.
Browse Shelf: Shows books shelved near it.

Subject:
Click to search Hollis for other materials about this subject.
Uses a controlled vocabulary developed by the Library of Congress.
Options for limiting Hollis search results on the left.
Search in Google if you forget how to search for them on the law library website.
International Commercial Arbitration

Getting Started

This guide is meant to help you find primary and secondary sources on international commercial arbitration. The goal is to provide a useful (but not exhaustive) list of resources. If you don’t see a database you are looking for, remember to use the Harvard Libraries portal, where you can search for e-resources by title, keyword, or subject and the research guides highlighted in this guide.

Research requires analysis and synthesis of information, and no one resource will likely provide sufficient information or data on any given topic.

While conducting your research, you may want to explore:

- Background sources
  - Arbitration Treatises (comprehensive coverage)
  - Handbooks, manuals, nutsheils (quick overviews)
- Primary sources
  - Treaties, Conventions, International Agreements
  - Court Decisions
  - Rules
  - Awards

Getting the Deal Through

Step-by-Step Research Example

Step 1: Background Research

Step 2: Sources for Primary Research

Step 3: Sources for Priming a Claim

Step 4: Sources for Proving a Claim
Getting Started

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Descriptions of and links to arbitration databases here.
KluwerArbitration

KluwerArbitration is a comprehensive database of international commercial arbitration materials, including the following:

- Awards
- BITs
- Commentary
- Conventions
- Court Decisions
- Legislation
- Models
- Rules

ACCESS:
KluwerArbitration is available to Harvard affiliates with HUID credentials; access through its HOLLIS record.

Organization
The organization of this database is shown by the tabs displayed across the top of the screen.
Click **Locations & Availability** in Hollis record to access link.
Automatic log in as Harvard affiliate if on law school network. If off-campus, log into Hollis before clicking link.
Use tabs to browse sources by type.
Use menu to browse sources by category.
Popular books and journals listed here.
Advanced Search option here.
Kluwer Arbitration is notoriously difficult to search. Use wildcards and Boolean Operators to make it easier.
Use the “NEAR” operator to search for terms that are close to each other in the text. This is called a “proximity search.”
Then, use the tabs and filters to limit your results.
BACK TO ICA RESEARCH GUIDE
The ICA research guide also has a step-by-step arbitration research problem example. The example uses a NAFTA Chapter 11 claim, but the concepts are transferrable, and these steps can be used for other arbitration research also.
Arbitration awards can be hard to find. Options are listed in **Step 3: Arbitration Documents.**

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INTERNATIONAL COMMERCIAL ARBITRATION RESEARCH GUIDE
Step 3: Finding Arbitration Proceeding Documents

Assume that you have read several law review articles and at least one treatise on this topic, and now you’re ready to find some primary sources. Specifically, you want to look at documents from the arbitration proceedings themselves, especially awards but also other relevant rulings.

Here are a few arbitration cases that are cited repeatedly in the NAFTA Chapter 11 literature:

- Ethyl Corp. v. Canada (proceedings started in 1996)
- Metaldial v. United Mexican States (proceedings started in 1997)
- S.D. Myers v. Canada (proceedings started in 1998)
- Methoxex Corp. v. United States (proceedings started in 1989)

NAFTA Claims Website

The easiest place to find documents related to arbitration proceedings for major NAFTA cases, including awards and other rulings, is the NAFTA Claims website: http://www NAFTA.org

Disputes on this site are organized by respondent country.

To find the materials for Ethyl Corp. v. Canada, click the Disputes, then Canada, then Ethyl Corp. This will display the screen shown below, which includes a list of documents related to the arbitration proceedings in this case. Click a document link to view it as a PDF.

Other Sources for Arbitration Proceeding Documents

Up until this point, the research methods used in this example could easily be adapted to other types of commercial arbitrations. However, the NAFTA Claims website will not help you if the arbitration documents you are looking for do not involve NAFTA cases.

Here are some other options for you to try to find these materials:

- ArbitrationLaw.com (Juris)
  This subscription database includes a number of arbitration reporters.

- ASA Bulletin (KluwerLaw International)
  This publication from the Swiss Arbitration Association includes arbitral awards and orders under various auspices including ICC, ICSID, and the Swiss Chambers of Commerce (“Swiss Rules”).

- Case Law on UNCITRAL Texts (CLOUT)
  This is a system for collecting and disseminating information on court decisions and arbitral awards relating to the Conventions and Model Laws that have emanated from the work of the UN Commission on International Trade Law (UNCITRAL).

- FINRA (Financial Industry Regulatory Authority) Arbitration Awards
  FINRA’s Arbitration Awards database enables users to perform Web-based searches for FINRA and historical NASD arbitration awards.

- ICC International Court of Arbitration Bulletin
  This journal, which the law library has in its print collection, includes extracts from ICC arbitral awards, official notes, reports and guidelines on dispute resolution practice and procedure, statistics, news, and articles by eminent arbitration specialists.

- ICSID Online Decisions and Awards
  This is a free online database of publicly-available decisions and awards rendered in ICSID cases.

- International Arbitration Cases: Arbitration Award Database
One source that people don’t often think of for finding arbitration awards is Westlaw.
Westlaw has a large collection of arbitration awards from many different sources.
ICSID Case No. ARB/10/7 (Award)
International Centre for Settlement of Investment Disputes ICSID
Award

ICSID Case No. ARB/10/7 (Award)

Philip Morris Brands Sarl, Philip Morris Products S.A. and Abal Hermanos S.A. (Claimants) v Oriental Republic of Uruguay (Respondent)

Industry: Tobacco industry
Case Type: International
Award Amount: $8,485,745
Claimant's Attorney: Stanimir Alexandrov; Maritn Carlson; Jennifer Haworth McCandless; Veijo Heiskanen; Noradle Radjai; Samuel Moss; Ken Reddy; Madeleine McDonough; Bill Crampton;
Respondent's Attorney: Rodolfo Nin Novoa; Jorge Basso Garrido; Miguel Angel Toma; Carlos Gianelli; Paul Reichler; Lawrence Martin; Clara Brillembour; Andrew B. Loewenstein; Harold Hongin Koh
Award Date: 8 July 2016
Arbitrator: Piero Bernadini (President); Gary Born; James Crawford
Country:
Place:
Language: English
Award history:
- Procedural Order No. 1 concerning confidentiality, 6 September 2011
- Decision on Jurisdiction, 2 July 2013
- Procedural Order No. 2 concerning production of documents, 13 January 2015
- Procedural Order No. 3 concerning the non-disputing party’s application to file a written submission pursuant to ICSID Arbitration Rule 37(2), 17 February 2015
- Procedural Order No. 4 concerning the non-disputing party’s application to file a written submission pursuant to ICSID Arbitration Rule 37(2), 20 March 2015, revised 24 March 2015
- Procedural Order No. 5 concerning procedural matters, 2 November 2015

FREQUENTLY USED ABBREVIATIONS AND ACRONYMS
I. INTRODUCTION AND PARTIES
II. OVERVIEW OF THE DISPUTE AND THE PARTIES' REQUEST FOR RELIEF
III. PROCEDURAL HISTORY
IV. FACTUAL BACKGROUND
QUESTIONS ABOUT ADR/ARBITRATION RESEARCH?
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